

Appln. No. 10/626,995

Attorney Docket No. 10541-1721

III. Amendments to the Drawings

A replacement sheet of drawings includes changes to Figure 2 which removes reference to character 58 is attached.

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-7-

Appln. No. 10/626,995

Attorney Docket No. 10541-1721

IV. Remarks

In response to the Office Action mailed August 11, 2005, kindly enter the foregoing amendment and consider the following remarks. Pursuant to 37 CFR §1.112, Applicants request reconsideration of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. In this Amendment, claims 1 and 10 have been amended and Claims 8 and 9 are being canceled. Thus claims 1-7 and 10-19 are pending and are at issue herein. In view of these amendments and the following remarks, favorable reconsideration of this application is requested.

ALLOWABLE SUBJECT MATTER

The Applicants would like to thank the Examiner for indicating allowable subject matter. In particular, on page 8 of the Office Action claims 9-13 were indicated as allowable if rewritten in independent form. As noted below, independent claim 1 has been amended to include the subject matter of dependent claim 9. Favorable consideration is respectfully requested.

RESTRICTIONS

The Examiner has imposed a restriction between Invention I, claims 1-13, drawn to a suspension system, and Invention II, claims 14-19, drawn to a volume modulator. The Applicants respectfully traverse the restriction requirement for two reasons while provisionally electing claims 1-7 and 10-13.

First, the Examiner asserts "the combination as claimed does not require the particulars of the subcombination as claimed because the modulator of Invention II has utility in other combinations". In essence, the Office Action asserts that proof of the second factor (separate utility) automatically proves the first (combination does not require the particulars).

BRINKS
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Appln. No. 10/626,995

Attorney Docket No. 10541-1721

In the instant case, the Office Action has not provided any basis that the combination does not require the particulars of the subcombination other than to say that the second factor is met. Clearly, and as described in MPEP § 806.05(c), both the first and second factors must be separately proved.

Second, MPEP § 803 requires there be a serious burden in examining the different sets of claims. Further, the Examiner is required to conduct a thorough search of the prior art per MPEP § 904. Here, since all the details of the subcombination (claims 14-19) are found in the claims 1-13 drawn to the combination, a thorough search by the Examiner should include both of the identified classes. Thus, it imposes no such burden on the Examiner to also examine the subcombination of claims 14-19.

For all these reasons, the Applicants respectfully request favorable reconsideration of the restriction requirement.

OBJECTIONS TO THE DRAWINGS

The drawings stand objected to as failing to comply with 37 CFR 1.84(p)(4) and 37 CFR 1.83(a) because two reference characters have been used to designate a single element in FIG. 2, and because they fail to show a motor 66.

The Applicants submit herewith an amended FIG. 2 on a replacement sheet which removes reference to character 58 and identifies motor 66. The specification has also been amended to remove reference to numeral 58. For these reasons, favorable reconsideration of the objection to the drawings is respectfully requested.

DOUBLE PATENTING

Claims 1-7 stand rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,811,167 and 6,814,364.

As will be discussed in more detail below, the Applicants have amended independent claim 1 to include the subject matter of allowed dependent claim 9. Notably, claim 9 was not rejected for obviousness-type double patenting, and therefore through amendment the rejection to independent claim 1 (as well as its

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Appln. No. 10/626,995

Attorney Docket No. 10541-1721

dependent claims) is moot. Favorable consideration is requested.

CLAIM REJECTIONS UNDER 35 USC §102 and §103:

Claims 1-4, 8 and 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by Sakai (U.S. Patent No. 5,486,018). Claims 5-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sakai in view of the Higginbotham reference (U.S. Patent No. 3,653,676).

First, the Applicants note that it is unclear which reference the Examiner is referring to by "Sakai (U.S. 5,486,018)". First, Form PTO-892, Notice of References Cited, does not list a U.S. Patent No. 5,486,018. Further, there are three patent references cited on Form PTO-892 which have the named inventor Sakai, but do not have corresponding patent numbers. Accordingly, the Applicants consider the rejection unclear and therefore moot.

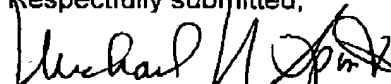
Nonetheless, for no reasons related to patentability, the Applicants have amended independent claim 1 to include the subject matter of dependent claim 9. Claim 9 was indicated as allowable on page 8 of the Office Action. For these reasons, favorable reconsideration of independent claim 1, as well as its dependent claims, is respectfully requested.

CONCLUSION

In view of the preceding amendments and remarks, the Applicants respectfully submit that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Applicants respectfully request that the Examiner contact the Attorney of the Applicants at the earliest convenience of the Examiner.

11/3/05
Date

Respectfully submitted,


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-10-